

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:11-CR-89
)	Judge Phillips
CARMEN BROOKS)	

MEMORANDUM AND ORDER

This case is before the Court on the defendant's motion for early termination of her sentence of probation [Doc. 23]. On May 7, 2013, the defendant was sentenced to a 5-year term of probation for one count of violating 18 U.S.C. § 371, conspiracy to commit wire fraud and bank fraud affecting a financial institution, and for one count of violating 18 U.S.C. § 1344, bank fraud. As outlined in her motion and supporting letter [Doc. 26], defendant states that she has completed over half of her 5-year term of probation. Defendant has maintained the same employment since 2009 and the same residence since 2011. The defendant has paid the special assessment and has made timely restitution payments. Defendant acknowledges that she will be required to continue to make payments until the restitution is paid in full. Defendant also notes that she was on pretrial supervision prior to sentencing and that, both before and after her sentencing, she has had no violations or negative occurrences. Defendant waived her right to an in-person hearing pursuant to Fed. R. Crim. P. 32.1(c)(2)(A).

The government opposes the motion [Doc. 24], noting that defendant received a downward departure from a guideline range of 21 to 27 months of imprisonment, to a

term of five years of probation and below the government's recommended sentence. The government argues that early termination is only appropriate where the defendant exhibits exceptionally good behavior and is not warranted where the defendant merely does what she is expected to do.

The U.S. Probation Office reports that the defendant has completed over half of her term of probation and she has maintained the same employment and residence from the time of her pretrial release in 2011 to the present. The Probation Office further reports that defendant has completed the 100 hours of community service required and she has consistently made timely restitution payments. Thus, the Probation Officer has no objection to defendant's request for early termination of probation.

Defendant moves for early termination of probation pursuant to 18 U.S.C. § 3564(c) which provides:

The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

After carefully considering the requirements of the statute, the court finds the relevant portions of 18 U.S.C. § 3553(a) support an early termination of defendant's probation. In support of this determination, the court notes that defendant has completed more than half of her term of probation; she has been in full compliance with the conditions of her probation; she has completed all court-ordered community service; she

maintains steady employment and a stable residence. In addition, her supervising probation officer recommends early termination. It appears to the Court that defendant has rehabilitated herself and she poses no threat to any individual or the community to reoffend. Accordingly, pursuant to 18 U.S.C. § 3564(c), based on the defendant's conduct and the interests of justice, defendant's motion for early termination of probation [Doc. 23] is **GRANTED**. Defendant's term of probation is **TERMINATED**.

IT IS SO ORDERED.

s/ Thomas W. Phillips
SENIOR UNITED STATES DISTRICT JUDGE